U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

Date: JUL 14 2014 Office: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

APPLICATION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A).

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an "alien of extraordinary ability" as a chess player, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, the petitioner asserts that the Grandmaster classification is the equivalent of a one-time achievement. Alternatively, the petitioner asserts that he has established his eligibility by receiving lesser recognized national or international awards, meeting the membership criteria, and making original contributions in his field of expertise.

I. LAW

Section 203(b) of the Act states, in pertinent part, that:

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --
> >
> > > (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> > >
> > > (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
> > >
> > > (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion.[1] With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this matter we will review the evidence under the plain language requirements of each criterion claimed. As the petitioner did not submit qualifying evidence under at least three criteria, the proper conclusion is that the petitioner has failed to satisfy the regulatory requirement of three types of evidence. *Id.*

II. ANALYSIS

A. Prior O-1 Nonimmigrant Visa

While U.S. Citizenship and Immigration Services (USCIS) has approved at least one O-1 nonimmigrant visa petition filed on behalf of the petitioner, the prior approval does not preclude us from denying an immigrant visa petition based on a different, if similarly phrased, standard. USCIS

[1] Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

denies many I-140 immigrant petitions after approving prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Brothers Co. Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989). Because USCIS spends less time reviewing I-129 nonimmigrant petitions than I-140 immigrant petitions, USCIS approves some nonimmigrant petitions in error. *Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d at 29-30; *see also Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004) (finding that prior approvals do not preclude USCIS from denying an extension of the original visa based on a reassessment of petitioner's qualifications).

We are not required to approve applications or petitions where eligibility has not been demonstrated, because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r 1988). We need not treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

Furthermore, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions on behalf of the beneficiary, we would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001).

B. Evidentiary Criteria[2]

1. One-Time Achievement

In asserting that the petitioner meets the one-time achievement requirement, the petitioner submitted documentary evidence describing the requirements and the significance of the title of International Grandmaster in chess. The petitioner initially submitted a *Wikipedia* article describing the significance of the title of International Grandmaster. The director concluded that such evidence lacked probative value because *Wikipedia* is an online open-content website and the site makes no guarantee of validity. [3]

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[2] The petitioner does not claim to meet or submit evidence relating to the regulatory categories of evidence not discussed in this decision.

[3] Online content from *Wikipedia* is subject to the following general disclaimer:

> WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. *Wikipedia* is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . *Wikipedia* cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

See Lamilem Badasa v. Michael Mukasey, 540 F.3d 909 (8th Cir. 2008). On appeal, the petitioner submits as supplemental evidence a document titled, " " available at The article discusses the significance of the title Grandmaster and indicates that a chess player qualifies for the title by participating in chess tournaments and earning a sufficiently high ranking. The article also states that the Grandmaster title is the highest recognition apart from World Champion. The petitioner submitted printed webpages from an online resource, but the submitted document does not include the URL for the website and does not otherwise identify the source of the information contained in the article. Consequently, the petitioner has not demonstrated the reliability of the information in the newly submitted online article.

Even assuming that the information in the article the petitioner submits on appeal is reliable, the petitioner still would be unable to establish that he has won a major, internationally recognized award such that he can demonstrate a one-time achievement pursuant to 8 C.F.R. § 204.5(h)(3). Congress' example of a one-time achievement is a Nobel Prize. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The regulation is consistent with this legislative history, stating that a one-time achievement must be a major, internationally recognized award. 8 C.F.R. § 204.5(h)(3). Significantly, even a lesser internationally recognized award could serve to meet only one of the ten regulatory criteria, of which an alien must meet at least three. 8 C.F.R. § 204.5(h)(3)(i). The selection of Nobel Laureates, the example Congress provided, is reported in the top media internationally regardless of the nationality of the awardees, is a familiar name to the public at large and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be internationally recognized in the alien's field as one of the top awards in that field. In contrast, even the petitioner's appeal brief describes the title of Grandmaster as a classification rather than an award. While the classification process is a rigorous one, as noted by the submitted article, the article also states that "the number of players with the grandmaster title has grown to such an extent where it is now common to see Grandmasters from all countries."

Neither the statute nor the legislative history addresses what awards less prestigious and recognized than the Nobel Prize qualify as major, internationally recognized awards. *Rijal v. USCIS*, 772 F.Supp. 2d 1339, 1345 (W.D. Wash. 2011) *aff'd* 683 F.3d 1030 (9th Cir. 2012). Congress felt it unnecessary and perhaps inadvisable to define "major" in this context and, instead, entrusted that decision to the administrative process. *Id. See* 8 C.F.R. § 204.5(h)(3). The evidence of record is insufficient to establish a one-time achievement.

2. Remaining Evidentiary Criteria

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The director determined that the petitioner did not establish this criterion. However, the nature of the petitioner's title and notable ranking sufficiently establish that his awards as a chess player are

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See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on June 9, 2014, a copy of which is incorporated into the record of proceeding.

nationally or internationally recognized. Accordingly, there is sufficient evidence in the record to conclude that the petitioner met this criterion as outlined in 8 C.F.R. § 204.5(h)(3)(i).

> *Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.* 8 C.F.R. § 204.5(h)(3)(ii).

On appeal, the petitioner asserts that he meets this criterion for the first time, relying on evidence previously in the record. The director, in the Request for Evidence (RFE), specifically noted that the petitioner did not submit evidence under this criterion and informed the petitioner that he could choose to submit evidence in response to satisfy the request. The purpose of the RFE is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). As in the present matter, where a petitioner was on notice of a deficiency in the evidence and had an opportunity to respond to that deficiency, we will not accept evidence offered for the first time on appeal. *See Matter of Soriano,* 19 I&N Dec. at 766; *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). The response to the director's RFE was the petitioner's opportunity to explain his membership in organizations that require outstanding achievement. *See id.* Under the circumstances, we need not consider the sufficiency of the new claim on appeal.

In the alternative, even if we assumed that the petitioner properly raised this criterion on appeal, the petitioner would not meet the requirements under this criterion. On appeal, the petitioner asserts that being a Grand Master qualifies him as a member in an association which requires outstanding achievements of their members. More specifically, the petitioner states that the [redacted] or the [redacted] sponsors chess tournaments around the world and grants titles. We have considered the petitioner's title above as evidence pertaining to the qualifying nature of the petitioner's awards. With respect to the membership criterion, there is nothing in the record to indicate that the sponsoring organizations admit members and require outstanding achievements for membership. Rather, the organizations sponsor tournaments where chess players can obtain Grand Master status through cumulative success.

Accordingly, the petitioner has not established his eligibility under 8 C.F.R. § 204.5(h)(3)(ii).

> *Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

The petitioner submitted the following evidence under this criterion:

(1) A printed webpage about the [redacted] about the Grand Prix;
(2) A printed press release from the [redacted] website about the Grand Prix;
(3) A printed copy of online promotional material for the 2011 Southern [redacted]

(4) A printed webpage from the website about the 2010 National Open;
(5) A printed webpage from the website about the
(6) A newspaper clipping titled,
(7) A newspaper clipping titled,
(8) A newspaper clipping titled, and
(9) A newspaper clipping titled, "[petitioner] – winner of the International Open Tournament in Germany.

All of the items make mention of the petitioner's name and/or include a photograph of the petitioner. However, the submitted published materials are about a specific chess tournament or event such that they are not "about the petitioner," as required by the plain language of the regulation. *See, e.g., Negro-Plumpe v. Okin,* 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles about a show are not about the actor). On appeal, the petitioner asserts that his petition is supported by numerous articles in a variety of chess publications, which are not highly circulated papers and magazines, but are deemed to be authoritative in the field of chess. The regulations require that the published materials be in major trade publication or other major media. *See also Braga v. Poulos,* No. CV 06 5105 SJO (C. D. CA July 6, 2007) *aff'd* 2009 WL 604888 (9th Cir. 2009) (concluding that the AAO did not have to rely on promotional assertions on the cover of a magazine as to the magazine's status as major media). While the petitioner claims that the papers and magazines are authoritative, there is no evidence indicating that they are major trade publications or other major media. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici,* 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Regarding the four newspaper clippings that the petitioner submitted, they are in a foreign language. The regulation at 8 C.F.R. § 103.2(b)(3) states: "Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." The director specifically noted that the translations accompanying the clippings did not comply with the regulation and requested in the RFE that the petitioner submit translations that meet the requirements of 8 C.F.R. § 103.2(b)(3). The petitioner did not provide new translations in the response to the RFE, or on appeal. The translations in the record do not contain a certification from the translator. Because these translations do not comply with 8 C.F.R. § 103.2(b)(3), they have no probative value. In addition, while the translations note the date and the name of the publication in which the newspaper clippings appear, the copies of the clippings do not display the name of the publication or show the date on the face. Therefore, the newspaper clippings do not include the title, date, and author of the material as required by the regulation at 8 C.F.R. § 204.5(h)(3)(iii), and the translations do not comply with the certification requirements at 8 C.F.R. § 103.2(b)(3).

Accordingly, the petitioner does not meet this criterion pursuant to 8 C.F.R. § 204.5(h)(3)(iii).

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

The director concluded that the petitioner did not establish this criterion. On appeal, the petitioner asserts that the director improperly weighed the evidence submitted in support of this criterion. The petitioner further states that evidence of his rankings, along with his classification as an demonstrate his original contributions in the field. In addition, the petitioner states that the support letters he submitted also attest to his original contributions in the field.

As an initial matter, the petitioner has submitted evidence of his chess rankings in NY state, the Georgia federation, and in the world. His rankings, as well as his title and classification as an demonstrate his individual success as a player in various tournaments and we have considered this evidence above as evidence pertaining to the qualifying nature of his awards. However, his individual success and accumulation of points from tournament wins do not impact the field as a whole. The evidence of the petitioner's ranking does not demonstrate that the petitioner's skills have significance to or impact on the field. *See Visinscaia v. Beers*, --- F. Supp. 2d ---, 2013 WL 6571822, at *6 (D.D.C. Dec. 16, 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

Similarly, while the petitioner has submitted support letters from leaders in his field, the letters do not detail the significance of the petitioner's work or the impact it has had on the field as a whole. The record contains letters from the following individuals: and

Grandmaster, Vice President of the three-time U.S.

the Founder of the President of the ; and Executive Director of the

For instance, the petitioner's current employer, writes:

> [The petitioner] will be coaching our most talented students, many of which are already national champions or nationally ranked and will benefit from [the petitioner's] high level tournament experience and teaching . . . . As we are hosting and sponsoring many high level international events, [the petitioner's] participation is essential to the qualifications necessary to hold such events. These factors all contribute to our decision to hire [the petitioner] as one of our premier coaches.

letter, while complimentary of the petitioner's skills and experience, discusses the impact that the petitioner has on his specific organization, not on the field as a whole. *See Visinscaia*, 2013 WL 6571822, at *6. Furthermore, the letter outlines the petitioner's contributions as a coach, and the petitioner's Form I-140 petition specifies that he is seeking eligibility as a professional chess player, instead of as a coach. Also, the petitioner's success in the field has been achieved as a chess player, not

as a coach. *See Lee v. I.N.S.*, 237 F. Supp. 2d 914 (N.D. Ill. 2002) (upholding a finding that coaching and competing are separate areas of expertise).

The remaining letters praise the petitioner's abilities and reiterate his success in the tournament circuit and his rankings as a chess player. For example, [redacted] writes:

> Within [a] short period of time [the petitioner] established himself as [a] well-respected chess player with extraordinary talent and ability, which contributed [to] him winning the extremely powerful tournaments such as [redacted] Festival.

As discussed earlier, the petitioner's ranking or success in the tournament circuit do not impact the field as a whole. Furthermore, merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. V. Sava,* 724 F. Sup. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.).

Accordingly, the petitioner did not establish his eligibility under this criterion.

> *Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

The petitioner previously submitted evidence under this criterion. The director's decision concluded that the petitioner did not meet this criterion and the petitioner does not identify any factual or legal error relating to this criterion on appeal. Consequently, the petitioner has abandoned this claim. *See Sepulveda v. U.S. Att'y Gen.,* 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005), citing *United States v. Cunningham*, 161 F.3d 1343, 1344 (11th Cir. 1998); *Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (plaintiff's claims were abandoned as he failed to raise them on appeal to the AAO).

> *Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.* 8 C.F.R. § 204.5(h)(3)(ix).

While the petitioner previously submitted evidence under this criterion, he does not raise this issue on appeal. The petitioner, therefore, has abandoned this claim. *See Sepulveda,* 401 F.3d at 1228; *Hristov*, 2011 WL 4711885 at *9.

> *Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.* 8 C.F.R. § 204.5(h)(3)(x).

The director determined that this criterion does not apply to the petitioner's field and instead is specifically applicable to the performing arts. The petitioner does not identify any factual or legal error relating to this criterion on appeal and, accordingly, the petitioner has abandoned this claim. *See Sepulveda,* 401 F.3d at 1228; *Hristov*, 2011 WL 4711885 at *9.

C. Summary

The petitioner has failed to submit sufficient relevant, probative evidence to satisfy the regulatory requirement of three types of evidence.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor" and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. §§ 204.5(h)(2) and (3); *see also Kazarian,* 596 F.3d at 1119-20. While we conclude that the evidence is not indicative of a level of expertise consistent with the small percentage at the very top of the field or sustained national or international acclaim, we need not explain that conclusion in a final merits determination.[4] Rather, the proper conclusion is that the petitioner has failed to satisfy the regulatory requirement of three types of evidence. *Id.* at 1122. The petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

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[4] We maintain de novo review of all questions of fact and law. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, we maintain the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii). *See also* section 103(a)(1) of the Act; section 204(b) of the Act; DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I. & N. Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).